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WILLIAM W. SULLIVAN

July 30, 1990

U.S. Environmental Protection Agency
Brad Bradley, SHS
Remedial and Enforcement Response Branch
230 South Dearborn
Chicago, IL 60604

Re: NL Industries/Taracorp Site
Granite City, Illinois

Dear Mr. Bradley:

This letter is written in response to a "special notice letter for remedial design/remedial action (RD/RA)," which was sent to Seidenfeld & Son Iron & Metal on June 28, 1990. According to the notice letter, Seidenfeld & Son Iron & Metal ("the Company") has been identified as a potentially responsible party (PRP) as defined at section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act. 42 U.S.C. 9607(a), as amended (CERCLA), with respect to the NL Industries/Taracorp Superfund site. The Company, clearly should not be listed as a PRP under any section of CERCLA.

This letter shall serve a dual purpose. First, it should inform the EPA of the facts necessary to demonstrate the lack of potential liability on the part of the company. Second, the letter should serve as a formal request that the Company be removed from the list of PRPs established by the EPA.

As an initial matter, it should be noted that the correct name of the company is Seidenfeld Incorporated and is a distinct and separate entity from the Seidenfeld & Son Iron & Metal Company which existed at the time the alleged shipments to the NL Industries/Taracorp site were made. The present company was organized and incorporated in June of 1980. The Company was incorporated by Mr. Richard Seidenfeld. After the incorporation of the Company, originally named Seidenfeld & Son Iron & Metal, Inc., Mr. Richard Seidenfeld entered into an agreement with Lee L. Seidenfeld for the purchase of certain real property and equipment. The real property and equipment had been used in the operation of Seidenfeld & Son Iron & Metal, a business enterprise owned and operated by Lee L. Seidenfeld. This business enterprise was being abandoned by Lee L. Seidenfeld, and



he wanted to sell off some of the remaining assets. This was accomplished through the agreement with Richard Seidenfeld.

No inventory, accounts receivable, or any other assets were purchased by Richard Seidenfeld, and the contract also did not provide for the acceptance or assumption by Richard, of any liabilities or obligations of the previously existing scrap metal business.

Prior to the making of the above-described agreement, Mr. Richard Seidenfeld had no working relationship with Mr. Lee L. Seidenfeld. Richard was not an employee of Seidenfeld & Son Iron & Metal (the sole proprietorship) nor participated in any portion of the business in any capacity. In addition, Mr. Lee L. Seidenfeld never worked for the newly created corporation, Seidenfeld & Son Iron & Metal, Inc. Given these facts, it can be undisputed that the Company, which currently exists as "Seidenfeld Incorporated," is a separate and distinct entity from the prior existing business, owned and operated by Lee L. Seidenfeld.

After the purchase from Lee L. Seidenfeld, the new corporation moved to a new location and altered the nature of its business operations. Of particular importance here, is the fact that the new corporation did not make or arrange for the transportation of any materials to the NL Industries/Taracorp site which has been declared a hazardous site by the EPA.

The notice letter received by Seidenfeld & Son Iron & Metal indicated that the Company had been identified as a PRP as defined at section 107(a) of CERCLA. According to this section, a PRP is any person who:

- (a) Currently owns or operates a facility at which hazardous substances have been disposed;
- (b) Owned or operated a facility, at which hazardous substances have been disposed, during the time of such disposal;
- (c) Arranged for the disposal or treatment, or arranged with a transporter for transport for disposal or treatment of hazardous substances; or
- (d) Transports hazardous substances and selects the disposal site.

Apparently, the E.P.A. is under the impression that either (1) Seidenfeld Incorporated is the same business that Lee L. Seidenfeld operated, or (2) Seidenfeld Incorporated has, at some time, arranged for the transportation, disposal, or treatment of hazardous waste at the NL Industries/Taracorp site. Neither

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belief is correct. The new company has engaged in no business relations with the site.

It is clear from the facts, as they have been described herein, that Seidenfeld Incorporated does not fall within the definition of a PRP, as defined under CERCLA. Accordingly, the Company respectfully requests that it be removed from the list of persons being considered PRPs by the EPA.

As an additional note, it has come to the attention of the Company that Lee L. Seidenfeld died in 1982. While it is quite possible that Lee may have been a PRP under CERCLA due to his actions as sole proprietor, the statute does not provide for such liability to extend to his heirs. Therefore, it appears that any such liability for the shipment of scrap metal to the NL Industries/Taracorp site, was extinguished upon his death.

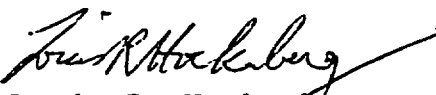
As indicated, the Company would like this response letter to serve as a formal request that it be removed from the list of PRPs. If the EPA needs any further information to facilitate such a removal, the company would be happy to provide it. The company would appreciate a response as soon as possible. Please forward all correspondence regarding this matter to:

Louis R. Hockenberg
Wasker, Sullivan & Ward
2100 financial Center
Des Moines, Iowa 50309
Telephone: (515) 243-1164

Thank you for your cooperation in this matter.

Very truly yours,

WASKER, SULLIVAN & WARD


Louis R. Hockenberg

LRH/dc
Enclosure

RECEIVED

JUN 6 1991

U.S. EPA REGION V
OFFICE OF REGIONAL COUNSEL

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June 3, 1991

Mr. Steven Siegel
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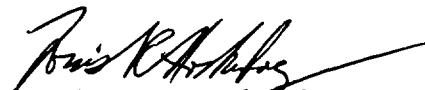
Re: NL Industries/Taracorp Superfund Site,
Granite City, Illinois

Dear Mr. Siegel:

I received the letter dated May 3, 1991 with regard to the above-captioned matter. Additionally, I have attempted to contact you by leaving my name on your answering machine a few times in the last week. I wish to discuss with you the alleged liability of my client, Seidenfeld Incorporated with regard to the above-mentioned matter. It is our opinion, as stated in our letter of July 30, 1990, a copy of which is enclosed, that Seidenfeld Incorporated is not a potentially responsible party. I would appreciate your contacting me upon receipt of this letter so that we can discuss this matter further as well as the information contained in our earlier letter. Please note that we have received no response to our letter of July 30, 1990.

Very truly yours,

WASKER, SULLIVAN & WARD


Louis R. Hockenberg

LRH/dc